

## **REMARKS**

### **Amendments**

In dependent claims 1, 8, and 13 are amended to incorporate the specific cancers listed in claim 2. As a result of these amendments claims 2 and 16 are cancelled, claims 3 and 6 are amended to depend from claim 1, and claims 17, 20, 29 and 30 are amended to depend from claim 13.

Claims 9-12 are amended to expressly recite 0.03  $\mu$ M as the lower limit for the range of maximum plasma concentration achieved during the administration. Claims 37 and 43-46 are amended to correct obvious typographical errors and/or delete superfluous language. Claim 38 is amended to replace the trademark Gleevec with its chemical name, i.e., imatinib mesylate. Claim 41 is amended to depend from claim 40, rather than claim 37.

New claims 48-60 are directed to further aspects of applicants' invention and are supported throughout the disclosure. See, e.g., the original claims.

### **Claim Objections**

Claims 37 and 43-46 are amended substantially in accordance with the Examiner's suggestions. As for claims 9-12, the Examiner is incorrect that the lower limit in claims 9-12 can be 0.00 micromolar. These claims each depend from claim 8 and thus include all the features of claim 8, including the lower limit of 0.03 micromolar. In any event, claims 9-12 are not amended to expressly recite this lower limit. Withdrawal of the objections is respectfully requested.

### **Rejection under 35 USC §112, second paragraph**

Claim 41 is amended to depend from claim 40 which provides antecedent basis for cytokines. Claim 38 is amended to replace the trademark Gleevec with its chemical name, i.e., imatinib mesylate. See, e.g., Hines (US 6,904,658). Withdrawal of the rejection is respectfully requested.

**Rejection under 35 USC §112, first paragraph**

Claims 1, 8-15, 23-28, and 33-46 are rejected on grounds of alleged lack of enablement. While applicants disagree that these original claims were not enabled, independent claims 1, 8 and 13 are amended above to recite that the cancers treated are cancers previously listed in claim 2. It is noted that this rejection was not applied to claim 2. Withdrawal of the rejection is respectfully requested.

**Rejections under 35 USC §102(a) and under 35 USC §103**

Claim 47 is rejected as being anticipated under 35 USC §102(a) in view of the abstract by Leblond et al.. In addition, claims 1-46 are rejected as allegedly being obvious in view of Gourdeau et al. (US 6,747,036) in combination with Chu et al. (US 5,817,667) and the Leblond et al. abstract.

The Leblond et al. abstract lists 11 co-authors, including the two inventors. It is noted that the abstract is attributed to Shire BioChem, the assignee of the instant application. The results discussed in this abstract are not the work of "another" under 35 USC §102(a), but are instead the work of the inventors.

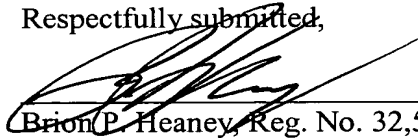
Applicants are filing herewith Declarations under Rule 132 by each of the two inventors. These Declarations confirm that, to the extent the claimed invention is disclosed in these publications, such disclosures are of the invention of Jacques Jolivet and Henriette Gourdeau, the two co-inventors of the present application. Therefore, this abstract does not constitute prior art with respect to the claimed invention. See, e.g., *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982).

Subsequent to the execution of these two Declarations, it was determined that there is an error in the text. Specifically, the Declarations refer to a study done on rats. Actually, the study mentioned was done on mice. Applicants will submit corrected Declarations in the near future.

For the reasons discussed above, withdrawal of the rejections under 35 USC §102(a) and 35 USC §103 is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

  
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